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WORLD BANK

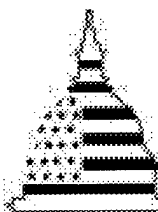
Status of Grievance Process Reform



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**National Security and
International Affairs Division**

B-282152

May 13, 1999

The Honorable Mitch McConnell
Chairman
The Honorable Patrick Leahy
Ranking Minority Member
Subcommittee on Foreign Operations
Committee on Appropriations
United States Senate

The Honorable Sonny Callahan
Chairman
The Honorable Nancy Pelosi
Ranking Minority Member
Subcommittee on Foreign Operations, Export Financing
and Related Programs
House of Representatives

In June 1998, in response to concerns about the fairness of its employee grievance process and as part of a broader effort to reform its human resource policies, the World Bank appointed an internal Grievance Process Review Committee.¹ The Review Committee was charged with examining the Bank's grievance system and recommending changes to make the system more fair and credible. The Committee undertook a broad examination of the Bank's existing system and possible alternatives.

In response to a requirement in the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999,² this report analyzes (1) the Review Committee's principal findings and recommendations and steps the Bank plans to take to implement these recommendations and (2) key issues that Bank management will face as it moves to implement these recommendations.

As an agency of the U.S. government, we have no authority to directly review World Bank operations. However, through the Department of the

¹This report uses the terms "World Bank" and "Bank" to refer to the World Bank Group of institutions. The World Bank Group is made up of the original "World Bank"—the International Bank for Reconstruction and Development—as well as the International Development Association, the International Finance Corporation, the Multilateral Investment Guarantee Agency, and the International Center for Settlement of Investment Disputes. These institutions share a single grievance system.

²Pub. L. No. 105-277, 112 Stat. 2681-167 (Oct. 21, 1998).

Treasury and the U.S. member of the Bank's Board of Executive Directors, we obtained access to Bank staff and documents sufficient to complete our report.

Results in Brief

The Review Committee found that the Bank's grievance system over emphasized formal, adversarial approaches to dispute resolution; lacked sufficient independence from management influence; did not adequately protect grievants' rights or hold managers accountable for complying with Bank rules regarding appropriate treatment of subordinates; and was not readily accessible to employees located away from the Bank's Washington, D.C., headquarters. The Review Committee also concluded that individuals charged with implementing certain responsibilities within the system lacked necessary expertise.

The Review Committee prepared a plan of action, accepted by management in February 1999 and endorsed by the Board of Executive Directors' Personnel Committee, that is designed to improve the system's effectiveness and credibility. Based on our review of the plan and other alternatives considered by the Committee, we note that the measures recommended by the Committee refine and enhance but do not fundamentally alter the Bank's grievance system. Among other things, the plan includes steps to (1) strengthen the system's provisions for informal dispute resolution, (2) hire additional staff with skill in relevant areas like discrimination and employment law, (3) increase the system's independence, (4) strengthen procedural safeguards for grievants, (5) hold managers accountable for complying with Bank rules regarding appropriate treatment of subordinates, and (6) expand access for field-based employees. The Review Committee also recommended creating a Conflict Resolution Network composed of Bank units with relevant responsibilities to provide a focal point for sustaining the Bank's commitment to insuring that the new system functions as intended. The Network will report to the Office of the Bank's President. The Committee decided against recommending more far-reaching changes, such as providing for independent arbitration of grievances, at this time.

The Review Committee identified a number of significant procedural and operational issues for others to address as implementation proceeds. The Bank must develop guidelines and regulations in several areas, train its staff to properly carry out their new responsibilities, and create a meaningful system for monitoring the system's performance and recommending additional refinements as necessary. As the Bank has just

begun implementing the Committee's recommendations, it is too early to assess their actual impact on the manner in which employee grievances are addressed. As the reforms are implemented, the performance of the Office of the President in supporting the new system's independence and authority will be a key factor in determining success in creating a fairer and more credible system. As a member of the Executive Directors' Personnel Committee, the U.S. Executive Director will have an opportunity to exercise direct oversight as the system comes into operation. We therefore recommend that the Secretary of the Treasury instruct the U.S. Executive Director to work with other members of the Personnel Committee to actively monitor the new system's introduction, assess its performance, and introduce refinements as necessary.

Background

The Bank's grievance system is used to seek resolution of a wide variety of grievances, including complaints about compensation, performance evaluation, separation from employment, and supervisory harassment.

As of early 1998, the Bank's system for addressing employee grievances included

- counseling and informal dispute resolution through an ombudsman, racial and gender equity advisers, the Bank's Human Resources Vice Presidential Unit, and the Bank Staff Association;
- investigation of alleged misconduct (including improper management action toward subordinates) by an Office of Professional Ethics;
- administrative review, by higher-level managers, of allegedly unfair or improper management actions toward subordinates;
- referral of disputes unresolved by administrative review to quasijudicial proceedings before an internal Appeals Committee;³ and

³The Appeals Committee is composed of three groups of Bank staff. The first group is chosen by management in consultation with the Staff Association. The second is chosen by management alone, and the third by the Staff Association alone. Individual grievances are reviewed by three-member panels that include one representative from each group, with members of the first group serving as panel chairs.

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- referral of disputes unresolved by the Appeals Committee for final disposition by an Administrative Tribunal made up of jurists from Bank member countries.⁴

Under U.S. law, the Bank is immune from suits arising out of its internal operations, including employment relationships, unless the Bank decides to waive this immunity.⁵ The Bank acknowledges that, because this is the case, it bears a heightened obligation to ensure that its grievance process is fair and commands confidence among the staff.

Aspects of the Bank's system for addressing employee grievances have been revised and augmented on a number of occasions. However, prior to 1998, the system as a whole had never been assessed. As part of a larger effort to reform its human resource policies, Bank management decided in early 1998 to conduct a broad review of the Bank's grievance system. The Bank subsequently set up an internal Grievance Process Review Committee and charged it with reviewing the existing system and recommending changes to make it fairer and more credible. Senior Bank managers said that their decision to initiate this effort was prompted by an awareness that many employees did not trust the system to fairly address their grievances. Our conversations with grievants, as well as Bank staff surveys and other information we examined in conducting this study, confirmed that many employees lacked confidence in the existing system's basic fairness.

The Review Committee examined the operations of the Bank's existing system and a wide range of possible actions. Among other things, the members of the Committee

- obtained detailed commentary on the Bank's system and possible alternatives from a noted U.S. jurist with over 40 years of experience in civil litigation;

⁴The Administrative Tribunal—the final stage in the Bank's grievance process—is composed of seven individuals, no two of whom may be nationals of the same country, who perform their duties on behalf of the Bank while also continuing in other positions. Tribunal members are appointed by the Bank's Board of Executive Directors from a list of candidates submitted by the President of the Bank. According to the international agreement that established the Tribunal, candidates for membership must be "persons of high moral character and must possess the qualifications required for appointment to high judicial office or be jurisconsults of recognized competence."

⁵See 22 U.S.C. sections 288-288d. See also Articles of Agreement of the International Bank for Reconstruction and Development, Article VII; and *Mendaro v. World Bank*, 717 F. 2d 610 (D.C. Cir. 1983), holding that the Bank has not waived its immunity with respect to employment disputes.

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- commissioned a study of the grievance systems of several other international organizations;
 - reviewed books and articles presenting current thought on best practices in formal and informal workplace dispute resolution, including descriptions of public and private sector systems recognized for employing effective procedures;
 - obtained employee input through focus groups and a variety of other channels, some of which were confidential;
 - solicited input from the Personnel Committee of the Bank's Board of Executive Directors, which includes the U.S. Executive Director;⁶ and
 - submitted a draft of their report for review by a panel of three recognized experts on workplace dispute resolution—two from the United States and one from Denmark.

In conducting its work, the Review Committee found no single model that could be easily adapted to meet the Bank's needs. Private companies and public institutions in the United States and other countries employ diverse approaches to workplace dispute resolution, and the national legal systems of Bank member countries differ in many key respects. For example, the rights and obligations inherent in the employer-employee relationship are defined differently in different countries, and legal systems employ different standards and approaches to guaranteeing that disputes are resolved in a fair and unbiased fashion. The Review Committee sought to draw from diverse sources to create a system that would function well in the Bank's unique multicultural environment.

In January 1999, the Committee posted a revised version of its report on the Bank's internal web site, invited Bank staff to offer comments, and obtained an endorsement of its recommendations from the Board of Executive Directors' Personnel Committee. In February, the Review Committee reported that management had accepted its report without significant modification and that implementation had begun.

⁶The U.S. Executive Director chaired the committee through the first 10 months of 1998 and continues to serve as a member.

Reported Shortcomings, Bank's Plan of Action, and Our Evaluation

The World Bank's Grievance Process Review Committee concluded that the Bank's grievance system had a number of serious shortcomings and developed a number of recommendations designed to improve the system's fairness and credibility. The measures proposed by the Committee refine and enhance, but do not fundamentally alter, the Bank's system. Based on our discussions with individuals both inside and outside the Bank and our review of current literature on best practices in workplace dispute resolution, we believe that these measures may improve the system's performance, but it is too early to assess their actual impact.

Shortcomings in the System

Identified shortcomings in the Bank's grievance process included⁷

- overemphasis on formal, adversarial procedures as opposed to informal approaches to resolving disputes, such as mediation;
- lack of expertise and/or independence from management influence in Bank units with relevant responsibilities;
- lack of procedural safeguards to ensure that the Appeals Committee and other elements of the system proceed in a fair and equitable manner;
- relative ineffectiveness in addressing complaints of bias and harassment;
- limitations on redress for staff who are found to have been treated unfairly;
- lack of effective measures for holding managers accountable for their actions toward subordinates; and
- insufficient access for the approximately 2,600 employees who are located outside of the Bank's Washington, D.C., headquarters.⁸

The Committee noted that employees often saw the system as neither fair nor credible and that this lack of confidence often deterred employees from attempting to use the system to resolve problems. Members of the Review Committee, as well as the Bank's Vice President for Human Resources, commented that restoring employee confidence in the system—and hence their willingness to use it—should be the reform effort's ultimate objective.

⁷Grievants, members of Bank units with relevant responsibilities, and others with whom we spoke confirmed that these were the grievance system's predominant shortcomings.

⁸Approximately 8,300 employees work at Bank headquarters.

Action Plan

The Review Committee prepared a plan of action to address the major shortcomings that it identified. Among other things, the Committee recommended steps to increase the system's capacity for informal dispute resolution (for example, mediation), enhance its independence, and strengthen procedural safeguards for grievants. The Committee's overall objective was to encourage settlement of most disputes through relatively informal, and hence more expeditious means, while also increasing staff confidence in the more formal procedures applied to settle disputes that cannot be otherwise resolved.

Strengthening Capacity for Informal Dispute Resolution

The Review Committee concluded that the Bank's system overemphasized formal approaches to dispute settlement while providing too little support for informal means of resolving workplace conflict. Experts in the field noted that grievance processes that are oriented toward formal dispute resolution force parties even to relatively simple disputes to invest substantial time and effort in complex adversarial proceedings. The Review Committee observed that, at the Bank, this orientation had discouraged many employees from attempting to seek redress and delayed resolution for those who had chosen to proceed.⁹ In particular, the Committee found that administrative review—the process wherein employees can formally challenge adverse supervisory decisions by asking that they be reviewed by higher-level management within the same line of supervision—had proven ineffective.

In response to this finding, the Committee recommended eliminating administrative review while strengthening the system's provisions for informal dispute resolution. Among other things, the Committee recommended expanding the ombudsman office from one to three staff members. In addition, the Committee recommended that the Bank introduce professionally facilitated mediation as a means of settling workplace disputes. The new mediation service would be managed by an individual with substantial experience in workplace dispute resolution and would provide access to a culturally diverse roster of external and internal mediators who would work to settle disputes in a confidential manner. The Committee intended these measures to bolster employees' willingness to raise concerns, increase the number of disputes that are settled in an informal (and consequently less costly and more timely) manner, and, as a

⁹One case that we reviewed, for example, took more than 2-1/2 years to move from presentation for administrative review to a decision by the Administrative Tribunal. The Tribunal handed down its ruling more than 2 years after the grievant had been separated from service with the Bank.

Increasing Independence and Expertise in the System

corollary, focus the Bank's more formal mechanisms on comparatively difficult cases. Their actual impact—that is, their utility in reducing workplace conflict—will depend upon a variety of factors, including the expertise and functional independence of the people placed in the new positions.

The Review Committee raised a number of concerns related to the independence and relevant expertise held by units with significant responsibilities in the grievance system, including the Appeals Committee and the ombudsman.

The Appeals Committee is the Bank's primary vehicle for providing grievants with a formal "day in court." According to the Review Committee, the Appeals Committee has historically processed about 30 cases per year, on average. The Appeals Committee is composed of regular Bank employees—not legal professionals—who serve as panel members in addition to their other duties. According to Bank employees we interviewed, these individuals are frequently pressed for time. In addition, panel members must concern themselves with their own career prospects in the Bank. Some employees expressed concern that, as this is the case, panel members may not be entirely immune from worry about how their decisions on controversial grievances will be regarded by senior Bank management.

The Review Committee also noted that the ombudsman—traditionally a single-person operation—has generally lacked special expertise for dealing with the full range of problems that come to that office's attention, especially harassment and discrimination. In addition, the Review Committee noted that placement of the Office of Professional Ethics and the Bank's advisors on racial and gender equity under the authority of the Vice President for Human Resources had reduced employee confidence in these offices' independence from management influence.¹⁰

In response to concern about the Appeals Committee, the Review Committee recommended enhancing this body's professionalism by creating a new staff position—Executive Secretary to the Appeals Committee. This position would be filled by an expert in labor and employment law. He or she would serve as a nonvoting member of panels

¹⁰In April 1998, the Office of Professional Ethics was removed from the operational control of the Vice President for Human Resources.

hearing individual grievances, tasked with ensuring that procedural safeguards are in place and observed, and with ensuring consistency and continuity in panel deliberations and decision-making. The person occupying this position would report to the Office of the President.

It is unclear what value the new position will add to the process. The Appeals Committee already employs a legal professional who performs virtually all of the functions that are contemplated for the new position. The Review Committee made no specific recommendation for endowing the new position with a higher degree of authority or influence than the current incumbent already exercises over panel proceedings.

The Review Committee also recommended that the Bank augment the ombudsman staff with two individuals holding expertise in specific areas of concern and replace administrative review with a professionally managed mediation service. Other Review Committee recommendations that were intended to address this concern included staffing the Office of Professional Ethics with trained investigators and having relevant elements of the system, including the Office of Professional Ethics and the Bank's gender and racial equity advisers, report directly to the Office of the President.

Strengthening Procedural Safeguards

The Review Committee, as well as grievants and outside experts, identified a number of shortcomings in the procedures that the Office of Professional Ethics, the Appeals Committee, and the Administrative Tribunal employed. These sources said that these shortcomings reduced employee confidence that these elements of the system will conduct themselves in a fair and impartial manner. The Review Committee offered suggestions on how these procedural safeguards could be strengthened.

The Office of Professional Ethics. The Review Committee noted that many employees lacked confidence in the ability of the Office of Professional Ethics to conduct investigations in a manner that treats both accused parties and accusers fairly. In response, the Review Committee recommended that the Office establish clear rules and procedures to protect the rights of all parties and ensure that investigations are conducted fairly.

The Appeals Committee. The Review Committee agreed with other Bank employees and outside experts who observed that the Appeals Committee, though originally developed as a vehicle for informal peer review, is now expected to conduct proceedings that are essentially adversarial in

character. The Review Committee concluded that while the procedures followed by Appeals Committee panels may once have been adequate, they could no longer be regarded as providing sufficient procedural safeguards for the parties to disputes, especially grievants. Among other specific shortcomings cited by employees and noted by the Review Committee, panel chairs retained complete discretion with regard to calling and cross-examining witnesses, and witnesses did not testify under oath. The Review Committee confirmed the views of several grievants with whom we spoke who stated that, as a result, panel deliberations often proceeded on the basis of incomplete or biased information. The Review Committee also noted that grievants often experienced substantial delays in moving forward. Bank attorneys commonly filed detailed challenges to the Appeals Committee's jurisdiction, and there was no deadline by which senior management was required to reply to panel recommendations.

In addition, the Staff Association, as well as grievants, pointed out that employees bringing complaints before Appeals Committee panels often felt overwhelmed by the enormity of the Bank as an opponent. These sources noted that this feeling may be exacerbated by rules that permit grievants to be accompanied by only one person—an adviser supplied by the Staff Association or the Appeals Committee, or an attorney—as they participate in panel hearings. Finally, some grievants objected to the fact that final authority to act on panel findings and recommendations lay with management—most often the Vice President for Human Resources.

The Review Committee did not recommend making Appeals Committee decisions binding on management. However, it did recommend a number of procedural improvements, including

- providing grievants with a formal role, along with management and the Appeals Committee itself, in determining the witnesses that will be called;
- explicitly recognizing the right of the parties to cross-examine witnesses;
- requiring witnesses to make a declaration of truthfulness before offering testimony;

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- reducing delays by limiting the Bank's right to challenge the Appeals Committee's jurisdiction¹¹ and by requiring that Bank management act on recommended remedies within 60 days.¹²

The impact of these recommendations on Appeals Committee deliberations will depend to a large extent upon the manner in which they are adapted into the rules governing Appeals Committee operations, as well as the manner in which they are applied in practice. For example, as already noted, existing Appeals Committee rules vest the panel with the authority to decide which of the witnesses requested by the parties will be heard—and the scope of each witness' testimony. Beyond submitting lists of desired witnesses, the rules do not provide the parties to the case with a role in deciding who is permitted to testify, or the topics on which these witnesses will speak. However, the rules do establish standards for panel decisions on such matters. They state that the panel may "reasonably" limit the number of witnesses that appear and the scope of their testimony "when it is satisfied that sufficient evidence has been heard to disclose fully and fairly the facts related to the appeal." It remains to be seen whether the wording that is developed to replace this provision will substantially strengthen this standard, and whether, in practice, the revised language will provide grievants with a stronger hand in resolving questions on witness selection and testimony.

The Administrative Tribunal. The Committee noted employee concern that the Administrative Tribunal's procedures did not provide its members with a full understanding of the matters at issue. Some employees and outside reviewers were particularly troubled that the Tribunal usually arrived at decisions without benefit of oral hearings.

The Tribunal is not an appeals court, as we understand the term in the United States. That is, it does not review the manner in which the Appeals Committee has handled the cases that are forwarded for Tribunal action, nor does it remand cases for rehearing before the Appeals Committee. Rather, it conducts its own independent review of the facts and arrives at

¹¹The Bank would continue to be allowed such challenges when the maximum time permitted employees for seeking redress after experiencing allegedly unfair or improper management actions had passed.

¹²To be more precise, the Review Committee recommended that Appeals Committee recommendations become binding if management did not respond within 60 days.

its own decisions on the merits of each case. Unlike Appeals Committee recommendations, Tribunal decisions are binding on the Bank.

The Tribunal meets infrequently, for short periods of time. Although it has the right to hear oral testimony, it seldom does. According to its staff, the Tribunal has held oral hearings on two occasions since its founding in 1980. The Tribunal has nearly always based its rulings on written submissions from the parties. These written submissions include an initial application by the grievant, followed in succession by (a) management's answer to the application, (b) the grievant's reply to the answer, (c) management's rejoinder to the answer, and (d) additional written statements, if deemed necessary by the Tribunal.

In response to concern about the adequacy of the record employed by the Tribunal, the Committee recommended making transcripts of Appeals Committee hearings available whenever cases advance to the Tribunal.¹³ The Committee also recommended that the Tribunal consider the merits of holding oral hearings more frequently.

Improving the System's Capacity for Addressing Bias and Harassment

The Bank's staff rules and related materials state that bias and harassment—including sexual harassment—are contrary to Bank policy.¹⁴ Nonetheless, the Review Committee noted that confidence in the system was particularly low among female employees and employees of African origin. For example, recent surveys found that only 1 in 10 female employees experiencing unwelcome sexual attention sought help from the resources the Bank had established for handling such problems and that fewer than 40 percent of employees regarded the Bank as serious about dealing with nationality discrimination.

The Review Committee proposed several measures that may help to improve the Bank's capacity for addressing bias and harassment allegations. These include the expansion of the ombudsman office to include staff with appropriate skills and creation of a mediation service.

¹³In other cases, the Appeals Committee would continue its present practice of not creating full transcripts. Hearings would be taped in order to provide for creation of transcripts if required.

¹⁴In a 1994 policy statement, the Bank defined harassment, whether by peers or superiors, as "speech or conduct which unreasonably interferes with work or creates an intimidating, hostile or offensive work environment, whether on the basis of race, religion, color, gender, sexual orientation, national origin or other like factors."

The Review Committee noted one particular provision that has limited access to the more formal portions of the Bank's system for many staff experiencing bias or harassment. The rules and regulations governing the Appeals Committee specify that, to seek redress through the Committee, staff members must challenge specific adverse managerial decisions. These may include allegedly unfair decisions on such matters as performance evaluation, compensation, promotion, or separation from employment. However, staff experiencing bias or harassment may be unable to point to a specific adverse decision as a basis for seeking redress. Experts in this area note that workers alleging bias or harassment often base their complaints on more general allegations that their superiors have maintained a hostile work environment.

In response to this shortcoming, the Review Committee recommended that grievants be permitted direct access to the Appeals Committee without first going through any other process. We note that the Appeals Committee's rules will also have to be changed to permit it to accept jurisdiction over cases where no specific adverse management decision has been cited.

Expanding the Committee's jurisdiction to include broadly based allegations of harassment, without reference to specific adverse decisions, raises questions regarding the criteria that the Committee should apply in arriving at its decisions. In this connection, the Review Committee noted that the Bank is engaged in developing an improved, more comprehensive harassment policy and code of conduct. This effort may provide the Appeals Committee with an adequate basis for fairly addressing grievances of this type, provided that it includes clear criteria for assessing managers' actions.

Expanding Redress for Successful Grievants

Grievants and other concerned Bank staff noted certain limitations in the remedies that have been provided for grievants obtaining favorable judgments from the Appeals Committee or the Administrative Tribunal.

First, the Appeals Committee has the authority to award successful grievants reasonable attorneys' fees, but it has seldom done so. In more complex cases, grievants may incur substantial attorneys' fees in obtaining a favorable ruling. Grievants argue that they should be reimbursed for these expenditures when the Bank is found to have been at fault. In response, the Review Committee recommended that the Appeals Committee make greater use of its authority to recommend award of reasonable attorneys' fees to successful grievants. The actual impact of

this recommendation will depend not only on the Appeals Committee's willingness to recommend such awards in appropriate cases but also on Bank management's willingness to actually make such awards.

Second, terminated grievants have seldom been reinstated, even when found to have been unfairly treated. Since 1990, for example, the Bank has reinstated five individuals in response to Appeals Committee recommendations, while no one has been reinstated based on a favorable ruling by the Administrative Tribunal. The Review Committee's report noted that reinstatement has rarely been provided, even when the Tribunal has found management guilty of "gross malfeasance."

In lieu of reinstatement, Bank management has frequently opted to provide successful grievants with monetary compensation. When recommending reinstatement, the Tribunal is specifically required also to fix an amount of monetary compensation, up to 3 years net pay, that the Bank may decide to award instead.¹⁵ The Bank has opted for compensation in each of the seven cases since 1990 in which the Tribunal recommended reinstatement. During this same period, Bank management also elected to provide monetary settlements in two cases in which the Appeals Committee had recommended that reinstatement be considered.

Concerned parties contend that the low likelihood of reinstatement as a remedy for unfair separation from employment is unacceptable, given the special circumstances attendant to employment in the World Bank. They point out that foreign nationals employed at the Bank's Washington, D.C., headquarters remain in the United States only by virtue of their status as Bank employees. Unless they find employment with another international organization, such as the United Nations, they must leave the United States within 60 days.

The Review Committee noted the desirability of reinstatement being provided when justified but did not make any recommendations on this matter, given that "decisions on reinstatement ultimately rest with the [Bank] management." It remains to be seen whether the Review Committee's endorsement of the more frequent use of reinstatement as a remedial measure will have a substantial impact on future Bank actions.

¹⁵The Tribunal may order the payment of higher amounts of compensation in "exceptional cases" where it believes such amounts are justified.

We note that final authority for deciding whether to reinstate an employee rests with the President of the Bank.

Holding Managers Accountable

The Review Committee reflected a concern expressed by many Bank employees when it observed that the system has not effectively held managers accountable for complying with the Bank's rules regarding appropriate treatment of subordinates. Many employees view the Bank's willingness to take action against managers who repeatedly violate the Bank's commitment to fair treatment of employees as a key indicator of its sincerity in pursuing effective reforms.

Several of the measures already discussed may help to address this problem. These include (1) clarifying the Bank's standards and expectations regarding harassment, (2) strengthening the Office of Professional Ethics' investigative procedures and personnel, and (3) expanding the Appeals Committee's purview to include grievances that are not based on specific adverse managerial decisions.

The Review Committee also recommended that the Bank reinforce accountability by reporting Appeals Committee decisions that clearly indicate mismanagement to offending parties' superiors, sanctioning managers who are found to have committed "serious or repeated" violations of staff rules, and advising Appeals Committee witnesses that knowingly making false statements would result in disciplinary action.

Finally, the Review Committee recommended that the Office of Professional Ethics, the ombudsman staff, and the Bank's racial and gender equity advisers cooperate to develop a system for monitoring and reporting cases of harassment and discrimination. While potentially worthwhile, this recommendation may be particularly difficult to put into effect. If effectively implemented, the system envisioned by the Review Committee increases the likelihood that management-staff disputes will be addressed in forums—like the ombudsman's office—whose continued effectiveness depends on maintenance of confidentiality. Outside experts noted that this simultaneous commitment to greater accountability and greater confidentiality presents those charged with implementing the new system with a major challenge—preserving an appropriate balance between the two commitments.

Ensuring Access for Field Staff

The Review Committee noted that employees working outside of Bank headquarters have made relatively little use of the grievance system—at least partially because of the difficulties that they have faced in accessing

the various elements of the system, which have been located almost entirely within the Bank's Washington, D.C., headquarters. The Review Committee made a number of recommendations for improving field staff access. These included

- providing access to the Office of Professional Ethics and the ombudsman office through secure, toll-free telephone lines;
- tasking the ombudsman staff with working to develop a network of local ombudsmen to serve field offices—possibly in cooperation with other international organizations;
- requiring that the manager of the proposed mediation service ensure that mediation is available to field offices; and
- equipping the Appeals Committee to conduct videoconferences with field offices.

We note that providing most field offices with effective access will be quite challenging, given the fact that Bank employees are dispersed among more than 90 sites around the world.

Key Implementation Issues

The Review Committee left management with a number of key issues that must be more fully addressed as implementation proceeds.

Outstanding Procedural Matters

As already noted, a number of procedural matters must be addressed before certain of the Review Committee's recommendations can be fully implemented. Among other things, these matters include (1) completion of procedures to govern Office of Professional Ethics investigations and policies clarifying the Bank's expectations regarding harassment and (2) clarification of the Appeals Committee's jurisdiction, the role of its proposed additional legal staff member, and rules governing the selection of witnesses and the scope of their testimony.

Developing an Appropriate Training Program

The Review Committee recognized that appropriate, effective training for Bank employees, especially managers, is critical to the success of the reform initiative. In addition to informing employees about the new system, the Committee envisioned a training program that would provide Bank staff with improved ethics, conflict resolution, and communications skills, as well as increased sensitivity to cultural differences. Experts agree

that effective training in these areas can reduce workplace conflict and facilitate early resolution of such disputes as may still arise.

To begin work in this area, the Review Committee recommended that a new unit be created within the Office of Professional Ethics charged specifically with promoting "corporate values and ethical behavior" among the staff. (The Office previously concentrated almost exclusively on conducting investigations.) The new head of the Office has already made some efforts in this direction, such as examining the Bank's existing training portfolio to identify elements that can be expanded and/or strengthened. However, substantial work remains to be done to create the multifaceted, coordinated training program that the Review Committee envisioned.

The Review Committee noted that one important topic in this training program should be how to prepare and communicate meaningful performance evaluations. The President of the Bank highlighted the performance evaluation system as a critical area of concern. He noted that Bank managers have not, in practice, been required to provide candid and timely performance feedback to employees. The Bank's Human Resources Vice Presidential Unit is currently engaged in introducing an improved performance appraisal system.

Monitoring and Refining the System

The Review Committee noted that in the past none of the units in the system collected meaningful information on its own performance. Representatives of the Appeals Committee, for example, reported that their unit had not instituted effective means for obtaining structured feedback from grievants and managers about their experiences before the Committee. In addition, because the Bank's system was not really an integrated structure but a set of uncoordinated mechanisms created at different times for different purposes, such data as had been collected could not be used for systemwide analyses. Because the system developed in this manner, the Review Committee observed that the Bank also lacked an effective institutional focal point for examining relevant information and taking such actions as may be indicated, including recommending refinements in the system.

The Review Committee concluded that the Bank should develop systemwide performance measures that can be used as a basis for monitoring the new system's performance. Staff satisfaction would be the chief measure, along with accessibility and the cost and time required for

settling disputes. Substantial effort remains to be invested in operationalizing these concepts, designing data-gathering instruments, and creating databases so that meaningful information on the system's performance (including the performance of each unit within it) can be effectively gathered, accessed, and analyzed.

In order to provide a focal point for a sustained commitment to improving the system, the Review Committee proposed creating a conflict resolution network comprised of all of the offices holding responsibility in this area. In addition to approving all proposed rules and procedures for the new system's constituent elements, the network would be charged with monitoring the system's performance, identifying emerging issues, and recommending additional refinements as necessary. The Review Committee recommended that the network continue to explore the introduction of other dispute settlement options, such as arbitration by external dispute resolution professionals, into the Bank's system.¹⁶ The network would have an implementation coordinator who would oversee creation of the new system and a rotating chair that would report to the Office of the President on at least a quarterly basis. The Review Committee also proposed that the network share with the employees information on major trends and developments. However, the manner in which this network will actually operate remains to be determined.

The Review Committee recommended that key actors in the new system—including the head of the Office of Professional Ethics and the Appeals Committee, the ombudsmen, and the chair of the conflict resolution network—report directly to the Office of the President. These recommendations highlighted the important role that this office should play in ensuring that the reformed system operates in a fair and independent manner, that managers are held accountable for their actions toward subordinates, and that refinements in the system are introduced as experience is gained through actual operations.

To further ensure a sustained commitment to improving the system, the Committee also recommended that annual reviews be conducted during

¹⁶Providing access to external arbitration is one of many options that are available for augmenting the independence and impartiality of the system. The Review Committee considered including arbitration among its recommendations. However, the Committee decided against making such a recommendation at this time, given that (a) substantial effort will already be required to implement the Committee's other recommendations and (b) the real need for arbitration as a supplement to the new system can only be judged after the new system has been in operation for some time.

each of the next 3 years, with provisions for taking employee views into account, as well as commentary from outside experts and the Board of Executive Directors' Personnel Committee. Substantial effort remains to be invested in planning and carrying out these reviews in a manner that ensures that they provide a meaningful basis for continued improvement in the system.

Evaluating the Administrative Tribunal

The Administrative Tribunal was not created by management but by an agreement among the Bank's member countries. Thus, Bank management cannot mandate changes in Tribunal operations on its own initiative. Major changes can only be made by agreement among the member countries. The Committee recommended that the Tribunal itself reassess its own procedures, taking input from Bank management and staff into account. Whether the Tribunal follows this recommendation remains to be seen, as does the nature of the conclusions that such an assessment might reach.

Conclusions

The Bank has acknowledged serious procedural and operational shortcomings in its grievance system and has prepared an action plan to address these shortcomings.

As implementation has just begun, the extent to which the action plan will increase the fairness and credibility of the grievance system cannot be assessed at this time. A number of open issues remain to be addressed, including several procedural matters, development of an appropriate training program, and creation of an effective monitoring system. Sustained management commitment and support will be needed to resolve these issues. As the revised system comes on line the performance of the Office of the President in supporting the system's independence and authority will be a key factor in determining its success. As a member of the Executive Directors' Personnel Committee, the United States Executive Director will have an opportunity to exercise direct oversight as the new system comes into operation.

Recommendation

To help ensure that the Bank achieves its ultimate goal of restoring employee confidence in the grievance system, we recommend that the Secretary of the Treasury instruct the U.S. Executive Director to work with other members of the Executive Directors' Personnel Committee to actively monitor Bank efforts to implement the new system developed by

the Review Committee, assess its performance, and introduce additional refinements as needed.

One critical element in helping to ensure the success of the reforms adopted by the Bank is the collection of meaningful data on whether these reforms have made the system more fair and credible. These measurement criteria have yet to be developed. To help assure that the Bank's goals are achieved, we recommend that the Secretary of the Treasury instruct the U.S. Executive Director to work with other members of the Personnel Committee to ensure that the Bank develops indicators that will provide an adequate basis for judging the reforms' actual impact.

Scope and Methodology

To understand the Bank's grievance system, we reviewed the rules and regulations governing its operation and interviewed employees from all Bank units with substantial responsibilities in this area. These units included the Appeals Committee, the Administrative Tribunal, the Office of Professional Ethics, the vice-presidencies for Human Resources and Legal Affairs, the Senior Advisers for Racial and Gender Equity, and the ombudsman. We examined the Review Committee's written conclusions regarding the system's strengths and weaknesses, discussed these matters with staff from relevant Bank units, reviewed a number of grievance case histories, and interviewed grievants and their attorneys. We also reviewed the results of employee focus groups held to inform the Review Committee's deliberations, as well as several reports that were prepared by outside experts at the Review Committee's request.

To provide a firm basis for reviewing (a) proposed improvements and (b) measures for ensuring that these proposals are successfully implemented, we interviewed experts on workplace dispute resolution and reviewed written commentary on effective formal and informal workplace dispute resolution from a number of expert sources. These included the American Arbitration Association, the Society of Professionals in Dispute Resolution, and the American Bar Association. To further inform our review, we read written reports on the grievance systems employed by other international organizations and by private and public sector organizations in the United States, including U.S. provisions for adjudicating disputes of this type before federal and state courts.

We examined the Review Committee's draft recommendations and discussed them with members of the Committee, including the co-chairmen and the head of the Staff Association; the President of the

Bank; heads of relevant Bank units; grievants; and outside experts, including those engaged by the Review Committee.

We did our work in Washington, D.C., between October 1998 and February 1999 in accordance with generally accepted government auditing standards.

Agency Comments and Our Response

The Department of the Treasury and the President of the World Bank provided written comments on a draft of this report. These comments are reprinted in appendixes I and II.

The Department of the Treasury stated that the report presents a fair and accurate assessment of the Bank's grievance process and the Review Committee's proposals. Treasury affirmed the commitment of Department staff and the U.S. Executive Director to monitoring Bank implementation of the recommended reforms to ensure that they have their intended effect. The President of the World Bank noted his personal commitment to ensuring that the recommended reforms result in a highly effective system for addressing employee grievances.

The President of the World Bank commented that, in his view, the report did not clearly convey a number of points that he considered important. Specifically, he stated that the report did not

- recognize that the Bank's grievance system reform effort—part of a broader effort at reforming the Bank's human resource policies and practices—began well in advance of GAO's review;
- capture the unique challenge of creating an effective system in an international organization composed of 181 member countries with widely varying dispute resolution practices;
- acknowledge the magnitude of the changes being made in the system, especially the substantial shift in emphasis toward settling disputes through informal, nonadversarial means; or
- mention that the experts consulted by the Bank viewed the system developed by the Review Committee as a "state of the art" model.

Our draft specifically stated that the Bank appointed a Grievance Process Review Committee in June of 1998, whereas our examination of the Review Committee's findings and recommendations did not begin until October 1998. The draft also acknowledged that the Bank's decision to examine its grievance process grew out of a broader, ongoing effort to reform the

Bank's human resource policies. The draft's background section discussed the difficulties inherent in developing an approach to resolving workplace disputes that would function effectively in a multicultural environment such as the Bank's. It also stated that the Bank's reform plan included a wide variety of measures that were intended to strengthen the system in each area where shortcomings were identified. We began the discussion of these measures in our draft report with a description of the Review Committee's recommendations for substantially strengthening the Bank's capacity for informal dispute resolution.

Our draft also recognized that the Review Committee sought, through various means, to ensure that its final report to management would be in line with current professional thinking on best practices in workplace dispute resolution. In discussions with Bank staff and with GAO, the experts consulted by the Bank commented that the Review Committee had taken current best practices thinking into account in developing its recommendations, and that the Committee's action plan provided the Bank with a sound basis for developing a fairer and more credible system. However, these experts also noted that no plan, however constituted, could be relied upon as certain to be satisfactory and that because this is the case, it is important that the Bank develop systems for effectively monitoring and refining the system as implementation proceeds.

We are providing copies of this report to the Honorable Robert E. Rubin, Secretary of the Treasury, and to Mr. James D. Wolfensohn, President of the World Bank. Copies will be made available to other interested parties upon request.

Please contact me on (202) 512-4128 if you or your staff have any questions concerning this report. The major contributors to this report were Michael McAtee, Stephen Lord, and Mark Dowling.



Harold J. Johnson, Associate Director
International Relations and Trade Issues

Comments From the Department of the Treasury



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

April 15, 1999

Mr. Harold J. Johnson
Associate Director
International Relations and Trade Issues
U.S. General Accounting Office
Washington, D.C. 20548

Dear Mr. Johnson:

Thank you for the opportunity to review the General Accounting Office's (GAO) report entitled "World Bank: Status of Grievance Process Reform." The U.S. Treasury Department believes that the Bank's internal grievance process should be credible, transparent and equitable. In view of employee concerns with the existing system, we are pleased that the Bank established the Grievance Process Review Committee to undertake a broad review of its grievance system, and that the Committee conducted its work in a timely manner.

We believe that the GAO report presents a fair and accurate assessment of the current grievance process and the Review Committee's proposals. The changes recommended by the Committee, and now under implementation, should help improve the Bank's grievance system. However, full implementation will be essential. This will require new guidelines, procedures, additional training, performance measures, and, ultimately, internal cultural changes within the Bank. Bank Management recognizes this challenge and is developing monitoring mechanisms, including an annual review by the Executive Board's Personnel Committee. The U.S. Executive Director will continue to vigorously exercise oversight responsibility over this process.

Reform of the World Bank's grievance process is a high priority for the U.S. Treasury Department, and we will vigilantly monitor the ongoing implementation of the revised system.

Sincerely,

A handwritten signature in dark ink, reading "William E. Schuerch".

William E. Schuerch
Deputy Assistant Secretary
International Development, Debt &
Environment Policy

Comments From the World Bank

The World Bank
Washington, D.C. 20433
U.S.A.

JAMES D. WOLFENSOHN
President

April 13, 1999

Mr. Harold J. Johnson
Associate Director
International Relations and Trade Issues
United States General Accounting Office
Washington, D.C. 20548

Dear Mr. Johnson:

At the outset, I would like to express my appreciation of the broad endorsement by the United States General Accounting Office ("GAO") of the grievance system reforms adopted by the World Bank Group. These reforms have been carefully crafted over many months with the help of Judge Shirley Hufstедler who worked closely with the Grievance Review Committee. They have been reviewed and strongly supported by three recognized authorities in the field of conflict resolution: Mary Rowe, Head Ombudsman at the Massachusetts Institute of Technology, Sloan School of Management; Hans Gammeltoft, Ombudsman of the Danish Parliament; and Phyllis Segal, Chair, Federal Labor Relations Authority. We are now in the process of implementing the reforms, and I can assure of my personal commitment to administering a conflict resolution system in the World Bank Group that ranks among the most effective and progressive systems of its kind.

However, I very much regret that the GAO report fails to convey a number of important points. First, there is no recognition of the fact that the World Bank Group initiated reform of its grievance system long before the GAO began its review. The grievance system was evaluated and the Grievance Review Committee was formed as part of an extensive effort by senior management to revitalize and improve the human resources strategy of the institution. This effort has been underway for about two years, and is now in the implementation stage.

Second, the GAO report does not acknowledge the magnitude of the changes being made in the World Bank Group's grievance process. The institution made a clear departure from traditional adversarial approach to dispute resolution, and has adopted a more comprehensive, conciliatory, and integrated system. Staff are now being provided with a wide range of informal and non-adversarial means to resolve conflicts, as well as formal dispute resolution channels with significantly strengthened procedural safeguards. Specific measures are being taken to increase access to the conflict resolution system by staff located outside of Washington in over 90 World Bank Group offices world wide.

Appendix II
Comments From the World Bank

Mr. Harold Johnson

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April 13, 1999

Substantial resources are being invested to build capacity within the system to deal with sexual harassment and discrimination in an effective manner.

Third, the GAO report fails to capture the unique challenges of formulating a conflict resolution system in a large inter-governmental organization composed of 181 member countries. Because conflict resolution methods vary widely from country to country, the World Bank Group adopted a system which builds on the best practices of its member countries and takes into account the institution's multicultural needs.

Finally, the GAO report does not mention that experts in the conflict resolution field, including Judge Huftstедler, have recognized that the new system adopted by the World Bank Group is a state-of-the-art model.

Thank you for providing me with an opportunity to comment on your findings. I appreciate the time and effort invested by the GAO and its dedicated staff to the completion of this report.

With best wishes

Sincerely,



James D. Wolfensohn

cc: Mr. Shengman Zhang
Mr. Daoud L. Khairallah